

Message Text

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ACTION EB-11

INFO OCT-01 ISO-00 EA-11 SS-20 L-03 INR-11 DRC-01 RSC-01

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R 120136Z SEP 74

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 6806

C O N F I D E N T I A L MANILA 10964

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E.O. 11652: GDS

TAGS: EAIR, RP

SUBJECT: CIVAIR - CIVIL ACTION SUIT AGAINST PAL

REF: STATE 199766

1. APPRECIATE VERY HELPFUL BACKGROUND PROVIDED REFTEL. MATTER EXPLORED BY ECON/COMM COUNSELOR WITH PHIL CAB EXEC. DIRECTOR AGCAOILI SEPT. 12. HE GENERALLY FAMILIAR WITH SITUATION AS REPORTED PARA 2 REFTEL BUT SAID HE HAD BEEN UNDER IMPRESSION CLAIM AGAINST PAL WAS TO BE DROPPED UNDER TERMS UNDERSTANDING RELATED TO CONCLUSION INTERIM AGREEMENT. HE WAS REMINDED THAT EMBASSY HAD AGREED TO SUPPORT MITIGATION OF PENALTY, BUT THAT NEITHER EMBASSY NOR DEPARTMENT ABLE TO DO MORE THAN RECOMMEND SUCH ACTION TO US CAB.

2. AGCAOILI REPORTED THAT PAL HAD BEEN UNWILLING TO OFFER A COUNTER TO CAB PROPOSAL TO CALKINS, BECAUSE PAL MANAGEMENT DID NOT WISH TO RISK A TURNDOWN BY SETTING THE AMOUNT TOO LOW (SIC). ARNOLD NOTED THAT OUT OF COURT SETTLEMENT MIGHT BE POSSIBLE BUT THAT OBVIOUSLY NOTHING COULD BE DONE TOWARD THAT UNLESS PAL MADE A PROPOSAL. ARNOLD THEN INQUIRED WHETHER PAL HAD GIVEN THOUGHT TO A BASIS FOR COUNTERPROPOSAL.

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3. NOTING THAT PAL HAD THE AUTHORITY TO FLY A DC-8 ON

THE DAY IN QUESTION, AGCAOILI SAID IN HIS VIEW THE PENALTY SHOULD ONLY BE RELATED TO THE DIFFERENCE IN CAPACITY BETWEEN A DC-8 AND A DC-10. ASKED WHAT WAS, HE REPLIED QUOTE 36 SEATS UNQUOTE (THE DC-8-63 HAS 212 SEATS AND DC-10 HAS 248). ASKED WHETHER PAL WAS PREPARED TO MAKE SUCH A COUNTER, AGCAOILI SAID HE DID NOT KNOW.

4. COMMENT: PAL POSSIBLY CAN BE BROUGHT AROUND BY GOP TO ACCEPTING IDEA OF SOME PENALTY, BUT WILL WISH (A) CLEARER UNDERSTANDING OF WHAT IS POSSIBLE AND (B) SOME RECOGNITION OF FACT THAT FLYING DC-10 HOME WITHOUT REVENUE PASSENGERS WAS A SIZEABLE PENALTY IN ITSELF. EMBASSY PROPOSES TO AWAIT INDICATION FROM AGCAOILI REGARDING PAL INTENTIONS, BUT PAL COULD DECIDE IN MENA TIME TO COUNTER PROPOSE. ACTION REQUESTED: APPRECIATE ANY THOUGHTS DEPARTMENT MAY HAVE ON MOST LIKELY RANGE OF SETTLEMENT AND ON AGCAOILI'S SUGGESTED WAY OF DETERMINING AMOUNT.
SULLIVAN

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